

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

LOCAL 295/LOCAL 851 IBT EMPLOYER
GROUP PENSION TRUST AND WELFARE
FUND, *et al.*,

Plaintiffs,

vs.

FIFTH THIRD BANCORP, *et al.*,

Defendants.

Case No. 1:08-cv-421

Judge Sandra S. Beckwith

Magistrate Judge Sharon L. Ovington

**STIPULATED ORDER
PURSUANT TO MAGISTRATE OVINGTON'S FEBRUARY 2, 2012 REPORT AND
RECOMMENDATION**

Pursuant to the Report and Recommendation of Magistrate Judge Ovington dated February 2, 2012, Plaintiffs, Defendant Fifth Third Bancorp, and the Intervening Parties (the Federal Reserve Board, the Ohio Superintendent of Financial Institutions, and the Michigan Office of Financial Insurance) met and conferred regarding: (a) a proposed schedule for the Intervening Parties to complete their review of documents currently being withheld from production by the Fifth Third Defendants under the bank examination privileges; and (b) a deadline for the production of non-privileged documents, if any, resulting from the review process.

The Federal Reserve Board indicated during the meet and confer process that it needed until April 30 to complete its review of the privilege log and documents, given its resources and commitments to a number of pending matters. The Federal Reserve Board asked for voluntary compliance with 12 C.F.R. §§ 261.22(b)(ii)-(vi) by Plaintiffs and Defendants to assist it in expediting its review of the privilege log and documents, but Plaintiffs have refused. Based on the position of the Federal Reserve Board and in order to synthesize the input of all Intervening

Parties, Fifth Third and the Intervening Parties proposed an April 30, 2012 deadline to submit a revised and comprehensive privilege log and Fifth Third agreed to produce non-privileged documents, if any, within 10 days.

Plaintiffs proposed earlier dates for completion of the review process and believe that the process should be completed quicker. Plaintiffs proposed an alternative plan to voluntary compliance with 12 C.F.R. §§ 261.22(b)(ii)-(vi) involving confidential review of privileged documents under Fed. R. Evid. 502 which was rejected by the Federal Reserve Board. Plaintiffs, nevertheless, are willing to compromise and agree to the timeframes proposed by the Fifth Third and the Intervening Parties in order to conserve the resources of all parties and the Court and to expedite the production of the revised privilege log and non-privileged documents, without further litigation concerning the schedule.

IT IS THEREFORE STIPULATED AND ORDERED:

1. Fifth Third will receive work product from the Intervening Parties after they have completed their review of the privilege log and documents and provide a revised Privilege Log to Plaintiffs by April 30, 2012; and
2. Fifth Third will produce any non-privileged documents resulting from this review process to the Plaintiffs by May 10, 2012.

Dated: February 21, 2012

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SO ORDERED:

This 22nd day of February, 2012


Magistrate Judge Sharon L. Ovington

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